

Arnold Schwarzenegger, Governor
Sunne Wright McPeak, Secretary, Business, Transportation, & Housing Agency
Jeff Davi, Real Estate Commissioner

Fall 2004



Commissioner's Message

As my first message to industry, I would like to say thank you. Thank for your support and confidence. I am also thankful for having chosen real estate as my profession as it has allowed me to achieve success and to be active in the community. Not all professions provide the kind of flexibility that one can have when he or she is a licensed real estate salesperson, broker or mortgage broker.

I am involved in state government at a very critical time and I am proud to have been appointed by Governor Schwarzenegger to help him in his

current effort to restore our great State. I have joined a group of talented and terrific people who all work at the Department of Real Estate. Individuals who understand your needs as licensees and who want to help. During this past year, the Department was faced with many challenges. The licensee population has now risen to a record 411,000. This is occurring during a time of limited government resources. The DRE, in spite of these challenges, under the leadership of John Liberator, Acting Commissioner and now my Chief Deputy Commissioner, was able to reduce license origination processing time from an average of 180 days to 77, and work continues to reduce that number even further. In addition, the Department

has a significant enforcement workload as well. In this regard, I am proud to report the Department has been able to reduce the processing times for the related investigations and enforcement actions. Further, in spite of an increase in subdivision filings, the Department has been able to reduce approval time frames, which is noteworthy.

I am personally committed to continuing the effort to decrease time lines and to address the growing concerns of the many licensees out in the field. As you might expect, enforcement activity is up as a result of the increase in licensees. In this regard, the Department will continue in its efforts to enforce the Real Estate Law and protect consumers. In addition, I plan to continue to advance the Department in the area of technology, whenever possible. Currently, the use of the eLicensing system by licensees has continued to increase and that type of online system is a perfect example of how the Department can become more efficient and more accessible to its licensee population.

I embark in this position as your new Commissioner with enthusiasm, energy and a sincere desire to work with an industry that has given me so much. Again, I want to thank you for this opportunity and encourage you to communicate with me as to your thoughts or advice.

Sincerely,
JEFF DAVI
Commissioner

Beginning January 1, 2005 LENDERS REQUIRED TO NOTIFY DRE ANNUALLY

Assembly Bill 2693 (Wiggins) added Section 10131.8 to the Business and Professions Code that, beginning January 1, 2005, will require DRE-licensed **lenders** to notify the Department annually if they meet four specific criteria (see the "Legislative Update" on page 2 for details).

The form to be used for notification, Residential Mortgage Lender Notification (RE 859), is available on the DRE Web site at www.dre.ca.gov under **Forms**. Affected licensees can also call the Mortgage Loan Activities Unit at (916) 227-0770 to request a copy of the form.

DRE-licensed **lenders** who meet the criteria must file the notification with the Department by March 31 of each year. Questions regarding this requirement should be directed to the Mortgage Loan Activities Unit.

MORTGAGE LOAN BULLETIN

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STATE OF CALIFORNIA
ARNOLD SCHWARZENEGGER
Governor

BUSINESS, TRANSPORTATION AND
HOUSING AGENCY
SUNNE WRIGHT MCPEAK
Secretary

DEPARTMENT OF REAL ESTATE
JEFF DAVI
Real Estate Commissioner

Principal Office
2201 Broadway
Sacramento, CA 95818

Mailing Address
P.O. Box 187000, Sacramento, CA
95818-7000

Telephone
(916) 227-0770

John R. Liberator
Chief Deputy Commissioner

Larry Alamao
Chief Counsel

Vacant
Managing Deputy Commissioner III
Mortgage Lending

Gary H. Sibner
Senior Deputy Commissioner
Mortgage Lending Advertising

The *MORTGAGE LOAN BULLETIN* is published as an educational service to real estate licensees engaged in mortgage lending activities.

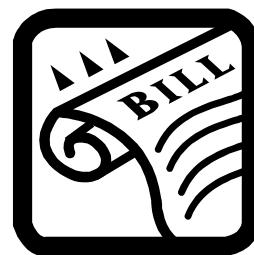
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DRE's Internet address is:
<http://www.dre.ca.gov>



LEGISLATION UPDATE

Following are summaries of bills of interest to the mortgage loan industry. Each bill has been signed and is effective January 1, 2005, unless otherwise noted. The bills can be reviewed in their entirety at www.leginfo.ca.gov (click on "Bill Information").



SB1150 (Burton) Lender Names

Adds Chapter 4 (commencing with Section 14700) to Division 6 of the Business and Professions Code. This bill prohibits the use of the name, trade name, logo or tagline of a lender in a written solicitation for financial services distributed to a consumer who has obtained a loan from the lender without the consent of the lender unless certain conditions are met. It also prohibits the use of a consumer's loan number or loan amount in a solicitation for products or services without the lender's consent unless certain conditions are met. The statute allows for injunctive relief and damages.

AB2693 (Wiggins) Lending

This bill, among other things, amends Section 10176 and adds Section 10131.8 to the Business and Professions Code to:


- Require a real estate broker to annually notify the DRE if all of the following conditions are met:
 - the broker is an approved lender for FHA, VA, FMHA, GNMA, FNMA or FreddieMac, and
 - the broker **makes** residential mortgage loans by using or advancing the broker's own funds or by making a commitment to advance the broker's own funds, and
 - the broker **makes** the credit decision in the loan transactions, and
 - the broker maintains a tangible net worth of a minimum of \$250,000.
- Allow the Real Estate Commissioner, after an investigation, to suspend or revoke a real estate license of a licensee who fails to disburse funds in accordance with a loan commitment accepted by the borrower when the broker is the lender or is authorized to issue the commitment on behalf of the lender or lenders, or
- Intentionally delays closing a mortgage loan for the sole purpose of increasing interest, costs, fees or other charges payable by the borrowers.

AB2069 (Chavez) Real Estate

This bill is of interest primarily to those brokers conducting multi-lender, private money transactions as it repealed a duplicative statute (Article 6 of the Business and Professions Code).

DID NOT PASS:

AB2261 (Parra) Limited Liability Companies

This bill would have amended the Real Estate Law to allow the DRE to license companies organized as limited liability companies. **The bill was not passed by the legislature. The sponsor of the bill has indicated the issue may be pursued again in the 2005-06 legislative session.** 

Required License Disclosures in Mortgage Loan Advertising

The DRE often receives calls from mortgage loan brokers asking about the requirements for advertising. The requirements are set forth in statutes and regulations quite clearly.

Business and Professions Code Section 17539.4 states:

“No person shall place an advertisement disseminated primarily in this state for a loan which utilizes real property as collateral unless there is disclosed within the printed text of that advertisement, or the oral text in the case of a radio or television advertisement, the license under which the loan would be made or arranged, the state regulatory entity supervising that type

of loan transaction or, in the case of unlicensed lending activity, a statement that the loan is being made or arranged by an unlicensed party who is not operating under the regulatory supervision of a state agency.

This section shall not apply to any bank or bank holding company, or to any savings association or federal association as defined by Section 5102 of the Financial Code, or to any industrial loan company or credit union, or to any subsidiary or affiliate of these entities if the subsidiary or affiliate is not separately licensed.”

In other words, every print, radio and television advertisement for a real estate loan must disclose the license under which the loan would be arranged. The law applies to real estate brokers, California Finance Lenders (CFLs), Residential Mortgage Lenders (RMLs), and even principals lending their own funds who are not required to be licensed. It does not apply to banks, savings and loans, credit unions, or their subsidiaries.

Real estate licensees are subject to additional requirements set forth in the Real Estate Law and Regulations of the Real Estate Commissioner as follows:

Business and Professions Code Section 10235.5 states:

“No real estate licensee shall place an advertisement disseminated primarily in this state for a loan unless there is disclosed within the printed text of that advertisement, or the oral text in the case of a radio or television advertisement, the license under which the loan would be made or arranged.”

Business and Professions Code Section 10236.4 elaborates: “In compliance with Section 10235.5, every licensed real estate broker shall also display his or her license number on all advertisements where there is a solicitation for borrowers or potential investors.”

Commissioner’s Regulation 2847.3 specifically states how the license disclosure should be made in real estate licensees’ advertisements for real estate loans:

“(a) Use of either of the following statements shall satisfy the requirements of Sections 10235.5 and 17539.4 of the Code:

(1) Real estate broker, California Department of Real Estate.

(2) California Department of Real Estate, real estate broker.

The words “California” and “Department” may be abbreviated only as “CA” or “CAL” or “Calif” and “Dept”. A dash (-) may be used in lieu of the comma appearing in the statements set forth above in paragraphs (1) and (2).

(b) The type size of the statement shall be no less than the smallest size type used in the advertisement copy.

(c) Use of either statement as set forth in subdivision (a) will also satisfy the designation requirements of Section 10140.6 of the Code.”

The Mortgage Loan Activities Unit may be reached at (916) 227-0770 for questions about advertising or other mortgage loan related issues. 📞

Acceptable license disclosures for mortgage loan advertisements by real estate licensees include:

- Real estate broker, California Department of Real Estate
- Real estate broker - California Department of Real Estate
- California Department of Real Estate, real estate broker
- California Department of Real Estate - real estate broker

California may be abbreviated only as “CA” or “CAL” or “Calif” and Department may be abbreviated only as “Dept.”

The real estate broker or corporation’s license number must be listed as well.

The license disclosure cannot be smaller than the smallest type used in a print ad. For radio and television ads, the license disclosure must be able to be heard and/or seen clearly.



*The fastest, easiest way to manage your real estate license!**

Brokers

- ☉ Add/Change Main Office Address
- ☉ Certify Salesperson Employment
- ☉ Terminate Salesperson Employment
- ☉ Renew License
- ☉ Request Duplicate License
- ☉ Change Mailing Address
- ☉ Receive the Real Estate Bulletin Electronically

Salespersons

- ☉ Add/Change Employing Broker
- ☉ Change Mailing Address
- ☉ Renew License
- ☉ Receive the Real Estate Bulletin Electronically

Examination Services

- ☉ Reschedule exam date
- ☉ Apply to re-take an exam
- ☉ Change exam mailing address
- ☉ View exam records
- ☉ Check scheduled exam date, time and location
- ☉ Request duplicate schedule notice
- ☉ View exam results
- ☉ Request duplicate results notice
- ☉ See if license has been issued

** You must have an existing examination record or license on file with the DRE.*

HELP FOR FIRST-TIME HOMEBUYERS

from the California Housing Finance Agency



Affordable Housing is our Business

With homes prices continuing to rise, many first-time homebuyers are finding it more and more difficult to purchase their first home. But help is available. The California Housing Finance Agency (CalHFA) is working to help low to moderate income Californians overcome this hurdle by offering down payment assistance programs. In just 12 months, July 2003 through June 2004, 5,311 families received down payment assistance from CalHFA's primary down payment assistance program for loans totaling \$32.1 million.

"CalHFA programs make it possible for more Californians to purchase their first home and realize the dream of homeownership," said Theresa Parker, CalHFA's Executive Director. "Even with a skyrocketing market, it is still possible for low to moderate income families to receive 100% financing with zero out-of-pocket expense to purchase their first home."

A good example of this is CalHFA's High Cost Area Home Purchase Assistance Program (HiCAP). With the recent addition of San Diego and Ventura counties to the original HiCAP counties of Alameda, Contra Costa, San Francisco, San Mateo, Santa Clara, and Sonoma, buyers in these high cost areas can bridge the affordability gap with a CalHFA 30-year fixed mortgage at interest rates below market rates and \$25,000 in deferred payment assistance on a second loan. The \$25,000 down payment assistance second is a simple interest loan at a 5% interest rate and is deferred for the life of the first loan. In addition, this program may be combined with other CalHFA down payment assistance loans or grants to close the affordability gap even further.

Other CalHFA down payment assistance programs offer deferred simple interest loans with low rates, including CalHFA Housing Assistance Program (CHAP) and California Homebuyer's Downpayment Assistance Program (CHDAP). These programs provide up to 3% of the sales price or appraisal to eligible first-time homebuyers anywhere in California.

In addition, CalHFA offers the following two specialty programs to help buyers come up with the cash needed for down payment and closing costs:

- Extra Credit Teacher Program (ECTP) – Teachers, administrators, classified employees, and staff members working in high priority schools may obtain low rate first mortgage financing and combine it with a deferred payment second loan of \$7,500 to \$15,000 or 3% of the sales price, whichever is greater.
- School Facility Fee Down Payment Assistance Program – California homebuyers purchasing newly constructed single family homes or condominiums may obtain a grant with the amount based on the school facility fees paid by the builder.

Individually, or combined, these down payment assistance programs may provide the boost a first-time homebuyer needs to turn the dream of homeownership into a reality.

Details on all CalHFA down payment assistance programs can be obtained by going to the homeownership section of the CalHFA Web site at **www.calhfa.ca.gov/homeownership/programs** or by calling 1-800-789-2432.

*CalHFA, the State's affordable housing bank, was chartered in 1975 to meet the housing needs of low and moderate income Californians and has helped more than 130,000 families purchase their first home. A complete list of CalHFA programs is available on the CalHFA Web site **www.calhfa.ca.gov**.*